IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DIVISION OF TEXAS
DALLAS DIVISION

No. 3-4058-B

BURTON IKARD, CHARLES IKARD, AND ERMA IKARD, *Plaintiffs*

v.

ESTATE OF CHARLES D. WYCHE, Deceased, *Defendant*

Judgment

BE IT REMEMBERED that on the 15th day of November, 1971, came on regularly to be heard the above entitled and numbered cause and came the parties in person and by their attorneys whereupon the Court made the following rulings:

1. Defendant's Motion for Summary Judgment is overruled;

2. Defendant's Motion to Strike is sustained;

3. Plaintiffs' Motion to Reconsider the Defendant's Motion to Strike is overruled;

4. Plaintiffs' application to amend, filed this day, is denied;

5. Defendant's Motion to Dismiss is sustained for the reason that Plaintiffs' failed to state a cause of action and the case is accordingly dismissed; and

6. Defendant's Third Party Complaint against Meyer Raben is now moot and it is hereby also dismissed.

PREMISES CONSIDERED, all costs are adjudged against the Plaintiffs for which let execution issue.

/s/ SARAH T. HUGHES
Judge Presiding

(*Same Caption*)

Amended Judgment

On this 5th day of January, 1972, this Court considered the proposed Nunc Pro Tunc orders filed by the parties with respect to the judgment entered on November 15, 1971 in the above case. After consideration of the proposed orders and other supplemental motions and briefs submitted by the parties, the Court files this Amended Judgment in clarification of the rulings made on November 15, 1971. The Court makes the following rulings:

1. Defendant's Motion for Summary Judgment is overruled;

2. Defendant's Motion to Strike is sustained for the reason that the contract, which is the subject of the actions asserted in the striken paragraphs, is void by reason of the Statute of Frauds;

3. Plaintiffs' Motion to Reconsider the Defendant's Motion to Strike is denied;

4. Plaintiffs' application to amend, filed on November 15, 1971, is denied for the reason that such amendment alleges damages arising from the contract which is void by reason of the Statute of Frauds;

5. After striking the paragraphs pursuant to the Defendant's Motion to Strike, the complaint contains only an action for an alleged commitment fee of $7500. The relief being below the required jurisdictional amount, Defendant's Motion to Dismiss is sustained and the case is dismissed;

6. Defendant's Third Party complaint against Meyer Raben is now moot and it is hereby also dismissed.

Premises considered, all costs are adjudged against the Plaintiffs for which let execution issue.

/s/ Sarah T. Hughes
United States District Judge

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 72-1314

BURTON IKARD, CHARLES IKARD, AND ERMA IKARD,
Plaintiffs-Appellants

v.

ESTATE OF CHARLES D. WYCHE, deceased,
Defendant-Third Party Plaintiff-Appellee,

AND

MEYER RABEN,
Third Party Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Texas

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(February 12, 1973)

Before TUTTLE, WISDOM AND SIMPSON, Circuit Judges

PER CURIAM: AFFIRMED. See Local Rule 21.[1]

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[1] See NLRB v. Amalgamated Clothing Workers of America, 5 Cir. 1970, 430 F.2d 966.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 72-1314

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Plaintiffs-Appellants

v.

ESTATE OF CHARLES D. WYCHE, deceased,
Defendant-Third Party Plaintiff-Appellee,

AND

MEYER RABEN,
Third Party Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Texas

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(March 13, 1973)

On Petition for Rehearing

Before TUTTLE, WISDOM AND SIMPSON, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing filed in the above entitled and numbered cause be and the same is hereby denied.